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10/807,936	03/24/2004	William D. Denison	4800 P 010	5149

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EXAMINER

ZIMMERMAN, BRIAN A

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/807,936
Filing Date: March 24, 2004
Appellant(s): DENISON ET AL.

Edward L. Bishop
For Appellant

EXAMINER'S ANSWER

MAILED
AUG 25 2006
GROUP 2600

This is in response to the appeal brief filed 6/22/06 appealing from the Office action
mailed 11/25/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The appellant listed the related appeals known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1-32,34,38-41,43,47-50,52,56-59,61,65.

Claims 33,35-37,42,44-46,51,53-55,60,62-64 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4354189	Lemelson	10/1982
5109530	Stengel	4/1992
4353064	Stamm	10/1982

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-6,8-12,14-20,22-27,29,30,34,38,39,43,47,48,52,56,61,65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stengel (5109530) and Lemelson (4354189).

Lemelson shows an unlocking device where a receiver in the reader receives a reply signal from a coded ring, but does not specifically show the power controlling modes claimed. In an analogous art, Stengel teaches a method that is used to save power in a receiver. Stengel's receiver deactivates a circuit for a first time period (tx) in

step 310. The receiver then enables the circuit for a second time period in step 304. Upon sensing an electromagnetic signal during the second time period, the enabling is extended for a greater time (ty) step 320. The received signal can then be processed because it will be received in its entirety during the extended time. This method saves power in the receiver system. Therefore, it would have been obvious to onre of ordinary skill in the art to have used Stengel's power saving steps in the receiver of Lemelson since Stengel teaches that such use would save power.

2. Claims 7,13,21,28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stengel and Lemelson as applied to claims 1,9,15 and 23 above, and further in view of Stamm (4353064).

In an analogous art, Stamm shows the use of Infrared as an alternative electromagnetic signal (alternative to RF). This has the inherent advantage that the signal does not radiate outside a building and is therefore harder to eavesdrop.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used an infrared signal for communication in the above system since such would provide improved security to the access system.

3. Claims 31,32,40,41,49,50,58,59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stengel and Lemelson as applied to claims 1,9,15 and 23 above, and further in view of the admitted prior art (hereafter referred to as the APA). The APA discussed by the applicant, namely paragraphs 3 through 11 (specifically paragraph

11), discuss the use of a keypad connected to the microprocessor of an access control system to provide commands to the access control system. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a keypad in the above discussed access system since such would provide the user with a way to enter access codes more securely and as an alternate in case the user loses the key.

(10) Response to Argument

The appellant argues that nothing is disclosed in Lemelson regarding conserving power as claimed. The appellant argues that Lemelson makes no attempt to conserve power. The appellant argues that Lemelson does not teach or suggest enabling a circuit for an extended time period so an input code can be received. The appellant does not argue that Lemelson does not show the locking features of the claims, ie (claim 1 for example) receiving an input code, comparing the input code to an access code and unlocking the lock if the input code matches the access code. So it appears that the appellant agrees that Lemelson teaches these elements. The difference between Lemelson and the claims is the battery saving steps in the receiver.

The appellant argues that nothing is disclosed in Stengel regarding the applicability of the battery saver to unlocking devices. The appellant does not argue that Stengel does not teach the battery saving steps of the claims, ie (claim 1 for example) deactivating the circuit for a first time, enabling the circuit for a second time, sensing an EM signal during the second time and enabling the circuit for an extended

time if an EM signal is sensed during the second time to enable reception of additional data. So it appears that the appellant agrees that Stengel teaches these elements. It is the examiner's position that Stengel teaches the use of these steps in any receiver that is battery powered in order to save power and Lemelson's receiver would benefit from the battery saving steps suggested by Stengel.

The appellant argues that the prior art must suggest the desirability of the claimed invention, and as such, the combination only exists in view of hindsight. First it is noted that the claims do not impart power saving in the locking or unlocking functions of the device, the claim do impart power saving elements in the communication functions of the locking/unlocking device. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Stengel does specifically teach a method that is used to save power in a battery powered receiver and Lemelson includes a receiver that is battery powered.

The appellant argues that the level of ordinary skill in the art at the time of the invention was overlooked. The appellant attests to this by stating that the inventors recognized the advantages of conserving power in an unlocking device. This does not

attest to the level of skill in the art, in fact it has nothing to do with determining the level of skill in the art at the time of the invention.

The appellant argues that the references do not disclose a low battery indicator. The claims do not call for a low battery indicator.

The appellant argues that the references do not disclose a two current solenoid. The claims do call for a solenoid to operate the lock, and Lemelson shows such a solenoid that requires one power level (current) to open and another power level while not opening the solenoid. The claims do not require that one of the power levels is non-zero, which was a reason for allowance in the parent application.

The appellant argues that the references do not disclose a keyboard for entering a code. Claims 31,40,49 and 58 do not require that the keyboard is used for entering a code, merely that a keyboard is connected to the microprocessor. The admitted prior art (paragraph 11 of the specification) discusses the use of a keypad in a lock system.

The appellant argues that the references do not disclose a program key on the keyboard. Claims 32,41,50 and 59 require the presence of a program key. The admitted prior art (paragraph 3 of the specification) discusses the use of a keypad to program the memory in a lock system.

The appellant argues that the references do not disclose reading and writing of codes. It is the examiner's position that the codes are stored in memory and therefore inherently a step of writing the codes into memory existed somewhere during the manufacture or set up of the system. It is the examiner's position that the codes are read from memory each time a comparison is made for unlocking.

The appellant argues that Stamm does not teach using infrared within a periodically enabled locking system. Stamm does discuss the use of infrared signals in an access control system (locking system) and as discussed above, Stengel and Lemelson are cited for teaching the advantages of periodically enabling a locking system receiver.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

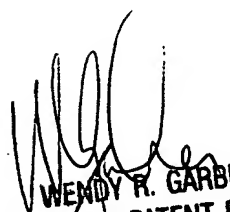
Respectfully submitted,



BRIAN ZIMMERMAN
PRIMARY EXAMINER
Brian Zimmerman

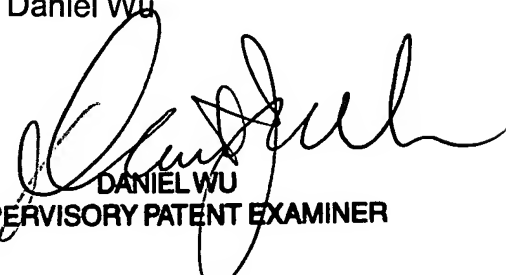
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